

REMARKS/ARGUMENTS

This Amendment is being filed in response to the final Official Action of April 17, 2008. The Official Action continues to reject all of the pending claims, namely Claims 1-28, under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,046,999 to Wu et al. In addition, the Official Action objects to Claim 28 for including an informality in its dependency to independent Claim 13. As explained below, however, Applicant respectfully submits that the claimed invention is patentably distinct from Wu; and accordingly traverses the rejection of the claims as being anticipated by Wu. Applicant has, however, amended independent Claim 28 to properly depend from independent Claim 19, as noted in the Official Action; and accordingly, Applicant respectfully submits that the objection to Claim 28 is overcome. In addition, Applicant has amended independent Claim 7 to correct an inadvertent typographical error. In view of the amendments to the claims and the remarks presented herein, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application. Applicant respectfully submits that the amendment to Claim 28 does not raise any new issues or introduce any new matter, particularly given the Examiner's indication that Claim 28 has already been considered to depend from Claim 19. And as such, in lieu of allowance of all of the pending claims, Applicant respectfully requests entry of this correspondence for purposes of narrowing the issues upon appeal.

Briefly, Wu discloses a half-duplex wireless audio communication system for transmitting content and remote control signals between a content retention and distribution system (e.g., CD player) and a content reproduction terminal (e.g., headphones or speakers) over a half-duplex channel, such as an RF channel having the same frequency band. The wireless communication system includes a base station and remote station (attached to or integrated with the content reproduction terminal). The base station is for formatting and transmitting the content signal to the content reproduction terminal via the remote station. The remote station is for transferring the content signal from the base station to the content production terminal, as well as remote control signals from the content production terminal to the base station, via the half-duplex channel.

According to one aspect of the claimed invention, as reflected by independent Claim 1, an apparatus is provided. As recited, the apparatus includes a processing element configured to send audio to a mobile terminal over an audio channel. The audio selectively includes voice communication and/or at least one or more coded tones, where the coded tone(s) are representative of one or more separate multimedia objects. In this regard, the processing element is configured to send the audio such that, when the audio comprises coded tone(s), the mobile terminal is configured to decode the coded tone(s) to thereby identify and present the multimedia object(s) represented thereby.

A. Note Regarding “Coded Tones”

Initially, Applicant notes that according to MPEP § 2111, pending claims must be interpreted consistent with the specification. And as explained in the MPEP, “[c]laim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art.” MPEP § 2111.01 (II.), *citing Sundance Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302 (Fed. Cir. 2003). In the instant case, independent Claim 1 recites a coded tone representative of multimedia object(s). Consistent with the specification and its ordinary and customary meaning, a “tone” may be interpreted as a “vocal or musical sound of a specific quality” (see Merriam-Webster Online Dictionary), or as a “sound wave” or “audible signal” (see IEEE 100: THE AUTHORITATIVE DICTIONARY OF IEEE STANDARDS TERMS – 7th ed.). And the adjective “coded” may be interpreted as something “put in or into the form or symbols of a code” (see Merriam-Webster Online Dictionary). The coded tone(s) of the claimed invention may therefore be interpreted as sound(s), sound waves or audible signals in the form of a code.

B. Wu Fails to Teach/Suggest Coded Tones

As explained in response to the first Official Action, in contrast to independent Claim 1, Wu does not teach or suggest sending an audio coded tone representative of a separate multimedia object, or in turn, decoding the coded tone to identify and present the respective multimedia object. Wu does disclose that its content signal includes digitized audio signals and appended timing, identification and control semaphores or messages. Even considering this

signal, however, Wu still does not teach or suggest that its content signal is itself a coded tone representative of a separate multimedia object, similar to the coded tone of independent Claim 1. That is, nowhere does Wu teach or suggest that its digitized audio includes a coded tone representative of a separate multimedia object, and which is decodable to drive presentation of that multimedia object. And even if one could argue that the timing, identification and control semaphores of Wu are representative of a separate multimedia object, nowhere does Wu teach or suggest that any of these semaphores include a coded tone.

In response to the foregoing with respect to distinguishing independent Claim 1 from Wu, the Official Action alleges that Wu's content signal corresponds to the recited coded tone. Final Official Action of April 17, 2008, page 2. As explained above, however, Applicant maintains that under no reasonable interpretation may Wu's content signal be considered a sound, sound wave or audible signal in the form of a code. Again, Wu's content signal includes digitized audio signals and appended timing, identification and control semaphores or messages. Nowhere, however, does Wu disclose that its digitized audio signals, or appended timing, identification or control semaphores or messages, individually or collectively as the content signal, are or include sounds, sound waves or audible signals in the form of a code, similar to the coded tone(s) of independent Claim 1.

Also in response to the foregoing, the Official Action alleges that Wu's audio equipment corresponds to the recited multimedia object. Final Official Action of April 17, 2008, page 2. That is, the Official Action alleges that Wu's content signal is representative of audio equipment such as compact disc players, AM/FM receivers, satellite audio and video receivers, computers or the like. To the extent that the Official Action does in fact allege that Wu's content signal represents audio equipment, Applicant respectfully disagrees and submits that such an interpretation is not only inconsistent with the specification, but also the ordinary and customary meaning attributed to the term "multimedia object" by those skilled in the art. *See MPEP §§ 2111, 2111.01 (II).* Moreover, Applicant questions the extent to which Wu's remote station (alleged mobile terminal) may identify the audio equipment represented by a coded tone, or present the identified audio equipment, similar to the mobile terminal of independent Claim 1.

Applicant does note that Wu refers to its identification information indicating which set of headphones or speakers are the intended destination of audio from its audio equipment. Even given this disclosure, however, Wu still does not teach or suggest that its remote station (alleged mobile terminal) presents the identified headphones or speakers, similar to the mobile station presenting identified multimedia object(s) as per independent Claim 1.

Applicant therefore respectfully submits that independent Claim 1, and by dependency Claims 2-6 and 25, is patentably distinct from Wu. Applicant also respectfully submits that independent Claims 7, 13 and 19 recite subject matter similar to that of independent Claim 1, including sending an audio coded tone over an audio channel, or in turn, decoding the coded tone to identify and present a multimedia object represented by the respective tone. As such, Applicant respectfully submits that independent Claims 7, 13 and 19, and by dependency Claims 8-12, 14-18, 20-24 and 26-28, are also patentably distinct from Wu, for at least the reasons given above with respect to independent Claim 1.

For at least the foregoing reasons as well as those presented below, Applicant respectfully submits that the rejection of Claims 1-28 as being anticipated by Wu is overcome.

C. Additional Features of Dependent Claims 2-6, 8-12, 14-18 and 20-28

In addition to the foregoing, Applicant respectfully submits that various ones of dependent Claims 8-12, 14-18, 20-24 and 26-28 recite features further patentably distinct from Wu.

I. Dependent Claims 2, 8, 14 and 20

Dependent Claims 2, 8, 14 and 20 further recite that the audio (selectively including voice communication or coded tone(s)) is sent during an exchange of audio communication, which is also absent from Wu. Initially, Applicants note that an exchange of audio communication as per Claims 2, 8, 14 and 20 requires back-and-forth (i.e., an exchange of) audio communication between two systems or apparatuses. Instead, Wu only discloses one-way communication of its audio signals. In this regard, Wu does disclose a transfer of audio signals from audio equipment, through a base station and remote station, to headphones or speakers.

However, Wu does not also disclose any transfer of audio signals from the headphones or speakers, through the remote station and base station, to the audio equipment. Rather, the only communication Wu discloses in the direction from the headphones/speakers to the audio equipment are control signals, none of which are disclosed as being audio communication.

2. *Dependent Claims 3, 4, 9, 10, 15, 16, 21 and 22*

Dependent Claims 3, 9, 15 and 21, and by further dependency Claims 4, 10, 16 and 22, further recite that the coded audio tone(s) represent multimedia object(s) presented at a system or apparatus with which the presenting terminal or apparatus in respective independent Claims 1, 7, 13 and 19 exchanges audio communication, which Wu fails to teach or suggest. Again, Applicant notes the Official Action's interpretation of the recited multimedia object(s) as corresponding to audio equipment. Again, Wu does not teach or suggest an exchange of audio communication. Further, even given the aforementioned interpretation of Wu proffered in the Official Action (however erroneous), Wu does not in fact teach or suggest that its base station or any other entity presents audio equipment, or that its base station sends a code representative of that audio equipment to a remote station, which in response thereto, presents the audio equipment, as per dependent Claims 3, 9, 15 and 21 read in concert with their respective independent claims.

3. *Dependent Claims 5, 11, 17 and 23*

Dependent Claims 5, 11, 17 and 23 further recite that the terminal or apparatus that presents the identified multimedia object(s) does so after retrieving the respective multimedia object(s) from memory, which is also absent from Wu. Once again, Applicant notes the Official Action's interpretation of the recited multimedia object(s) as corresponding to audio equipment. More particularly as to at least dependent Claim 5, the Official Action alleges that Wu discloses:

... the remote station (25 of fig. 1, 4) is capable of retrieving by block memory circuits (106 of fig. 4), from buffer memory (110 of fig. 4), the identified the [sic] audio equipment (i.e. multimedia object) before presenting the identified of [sic] audio equipment (see fig. 1, 4 and col. 4 lines 14-28, col. 8 lines 1-45).

Official Action of April 17, 2008, page 6. However, Applicants respectfully submit that Wu does not in fact teach or suggest retrieving identified audio equipment from memory, as per dependent Claims 5, 11, 17 and 23. In fact, Applicants are completely baffled as to how audio equipment may be stored in memory so as to be retrieved therefrom.

4. *Dependent Claims 6, 12, 18 and 24*

Dependent Claims 6, 12, 18 and 24 further recite sending multimedia object(s) including the identified multimedia object(s) over a data channel before the audio is sent over the audio channel, which is also absent from Wu. Maintaining the aforementioned interpretation of Wu's audio equipment corresponding to the recited identified multimedia object(s), the Official Action explains that Wu discloses:

Re claim 6, as discussed above with respect to claim 5, Wu further discloses the processing element (i.e. base station 10 of Fig. 1, 3) is processed to send content signal (coded tone) which is represented audio equipment (5) like compact disc players, satellite audio and video receivers, computers) (i.e. multimedia object) and received content signal comprising identification which presented the audio equipment (i.e. multimedia object) (see fig. 1, 3, 4 and col. 2 lines 30-64, col. 4 lines 23-28, col. 5 lines 18-23).

Official Action of April 17, 2008, pages 6-7. Notably, nowhere does the Official Action allege that Wu teaches or suggests sending anything corresponding to multimedia object(s) over a data channel. And given the Action's interpretation of Wu's audio equipment corresponding to the recited multimedia object(s), Applicants respectfully submit that it does not make logical sense for Wu to teach or suggest sending its audio equipment over a data channel, similar to the claims reciting sending multimedia object(s) over a data channel.

5. *Dependent Claims 25-28*

Finally, in contrast to dependent Claims 25-28, Wu does not teach or suggest an audio sensor enabling detection of whether the audio includes coded tone(s) as the audio is output. For this feature of the claims, the Official Action actually cites an infrared sensor of Wu as corresponding to the recited audio sensor. Again, however, Applicant respectfully submits that under no reasonable interpretation consistent with the specification, or any ordinary and

customary meaning, may an audio sensor be considered an infrared sensor. By their very terms, audio and infrared sensors sense vastly different inputs. That is, an audio sensor such as that of Claims 25-28 senses audio inputs, whereas an infrared sensor such as that disclosed by Wu senses infrared radiation.

Applicant does acknowledge that the Official Action may be attempting to relate Wu's infrared sensor to an audio sensor in its allegedly receiving digitized audio signals. However, Applicant submits that Wu does not in fact disclose its infrared sensor receiving digitized audio signals, but instead that its infrared sensor receives remote control commands, none of which are disclosed as including digitized audio signals. Moreover, even if Wu did disclose that its infrared sensor does receive digitized audio signals, to properly operate, those signals would still have to be in the form of infrared radiation; and would therefore not constitute audio sensible by an audio sensor, similar to the audio sensor of Claims 25-28.

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CONCLUSION

In view of the amendments to the claims and the remarks presented herein, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues. As explained above, no new matter or issues are raised by this Amendment, and as such, Applicant alternatively respectfully requests entry of this Reply for purposes of narrowing the issues upon appeal.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
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